

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 19-47187

MICHAEL T. WAN
and
XINYAN WAN,

Chapter 7

Judge Thomas J. Tucker

Debtors.

ORDER DECLINING TO ENTER STIPULATED CONSENT JUDGMENT

This case is before the Court on the stipulation filed on October 14, 2019, entitled “Stipulation for Entry of Consent Judgment,” by and between Jones Auto Sales, LLC (the “Creditor”) and the Debtor Michael T. Wan (Docket # 53, the “Stipulation”). Attached to the Stipulation, and submitted to this Court, was a proposed consent judgment. This Court declines to enter the stipulated consent judgment, for the following reasons:

The proposed consent judgment states that the Debtor Michael T. Wan is liable to the Creditor in the amount of \$139,569.94, “which is non-dischargeable pursuant to 11 U.S.C. §§ 523(a)(2)(A), 523(a)(4), and 523(a)(6).” (Docket # 53). However, this Court previously filed an Order denying the discharge of Debtor Michael T. Wan under 11 U.S.C. § 727(a)(10), on September 17, 2019 (Docket # 49). That no-discharge order renders the issue of non-dischargeability under 11 U.S.C. § 523(a) moot. *See, e.g., Michigan Unemployment Compensation Agency v. Perry (In re Perry)*, 559 B.R. 702, 703 (Bankr. E.D. Mich. 2016).

Because the non-dischargeability issue is moot, this Court cannot enter a money judgment in favor of the Creditor and against the Debtor. The Court’s authority and subject matter jurisdiction to enter such a money judgment is “wholly dependent on its statutory authority, under 28 U.S.C. § 157(b)(2)(I), to determine the dischargeability of [the Debtor’s] debt [to the Creditor].” *Id.* (citations omitted). “In the absence of authority to grant a determination of nondischargeability (due to mootness of that issue), this bankruptcy court no longer has authority or subject matter jurisdiction to enter a money judgment for [the Creditor].” *Id.*

The Court also notes that, at this point, at least, this is a no-asset case. But if that changes the Creditor may file a proof of claim, in the amount it claims to be owed.

For the reasons stated above,

IT IS ORDERED that the Court declines to enter the proposed consent judgment that was filed with the Stipulation and submitted to the Court.

Signed on October 16, 2019



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge